

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS PORTILLO-QUEZADA,

Defendant.

**Case No. 03-20051
08-2295**

MEMORANDUM AND ORDER

Defendant Carlos Portillo-Quezada filed a pro se motion pursuant to 28 U.S.C. § 2255 on June 27, 2008. That same day, attorney Theodore J. Lickteig entered his appearance on behalf of Mr. Portillo-Quezada and attorney Kent E. Gipson filed a motion to appear pro hac vice, which this court granted. Mr. Portillo-Quezada’s attorneys then filed a motion for an extension of time to amend the § 2255 motion.

Presently before the court is Mr. Portillo-Quezada’s Eight Motion for an Extension of Time (doc. 542). According to the motion, another extension is needed “because counsel needs additional time to contact a witness for the Government at the trial of this case who may recant or change her testimony in material respects. Completion of research and drafting of the memorandum in support is also needed.”

The Government opposes this request (doc. 544), arguing that Mr. Portillo-Quezada has failed to show good cause for the repeated requests for additional time. The

Government also observes that the asserted ground in support of this motion—specifically, the existence of a witness who may recant her trial testimony—is nearly identical to the grounds identified in the sixth and seventh motions for additional time, filed on June 26, 2009 and September 25, 2009. Thus, the Government contends, Mr. Portillo-Quezada has known about this witness and the possibility of her recanting for over six months, and yet has been unable to obtain the necessary information to amend his § 2255 motion. Moreover, the Government notes, Mr. Portillo-Quezada has not offered any details about steps taken to contact this witness or why research for the memorandum in support is taking so long.

In reply, Mr. Portillo-Quezada’s attorneys assert that they “want to leave no stone unturned in their representation” of him and that “some stones take more time than others to unturn” (doc. 545). Mr. Portillo-Quezada’s counsel contend that they “do not intend to seek an indefinite series of extensions” and that “they will endeavor to file an amended motion and memorandum in support by March 26, 2010, if the Court grants an extension to that time.”

Under Rule 6(b)(1) of the Federal Rules of Civil Procedure, the court may extend a deadline for good cause. Fed. R. Civ. P. 6(b)(1). The court has to this point been generous in finding good cause. But the Government’s objections are noted, and the court is getting concerned about the length of time Mr. Portillo-Quezada’s attorneys are taking to submit an amended § 2255 motion. This eighth motion will be granted, and Mr. Portillo-Quezada will have until March 26, as requested, to file an amended § 2255

motion. Further extensions of time will not be granted, however, without a hearing, at which counsel will be expected to provide specific details explaining the continued need for additional time.

IT IS THEREFORE ORDERED BY THE COURT that Mr. Portillo-Quezada's Eighth Motion for Extension of Time (doc. 542) is **granted**. The defendant shall have until March 26, 2010 to file an amended § 2255 motion, the government shall have until April 26, 2010 to file a response to defendant's amended motion, and the defendant shall have until May 26, 2010 to reply thereto.

IT IS SO ORDERED this 27th day of January, 2010.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge